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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA,)	No. CR 06-0692 PJH
)	
13 Plaintiff,)	
)	STIPULATION AND [PROPOSED]
14 v.)	ORDER EXCLUDING TIME UNDER THE
)	SPEEDY TRIAL ACT
15 GARY SWANSON,)	
)	
16 Defendant.)	

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18 The parties stipulate as follows:

19 On November 7 and 8, 2007, counsel for Gary Swanson, John J. Bartko, Robert H.
20 Bunzel and John F. McLean, and the United States Department of Justice, represented by Niall E.
21 Lynch, Nathaniel Cousins, E. Kate Patchen, and Charles P. Reichmann, appeared before Judge
22 Phyllis J. Hamilton for a Pretrial Hearing. The Defendant filed several pretrial motions including
23 Defendant's Motion *In Limine* No. 1 to Exclude Evidence (1) that Defendant Gary Swanson
24 Participated in or Joined an Alleged Conspiracy Before April 1, 2001 and (2) any Evidence
25 Related to an Alleged Conspiracy Prior to April 1, 1999. The Defendant also filed a Declaration
26 of Robert H. Bunzel Regarding Time Required to Review Documents 1997-2000, which
27 described the volume of documents the Defendant's counsel would need to review if the Court
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1 denied their motion, and the amount of additional time counsel would need to review these
2 materials. The Court denied the Defendant's motion but agreed to continue the trial date for two
3 and a half months to allow the Defendant sufficient time to review the evidence he sought to
4 exclude in his motion. The Court rescheduled the trial date from November 26, 2007 to February
5 4, 2008.

6 Counsel for Swanson and the government requested an exclusion of time under the Speedy
7 Trial Act, from November 26, 2007 to February 4, 2008. The Court has agreed with the parties
8 and ordered the exclusion of time under the Speedy Trial Act from November 26, 2007 to
9 February 4, 2008 based on the following reasons:

- 10 1. The discovery in this case is voluminous and includes millions of pages of
11 documents and 280 gigabits of electronic discovery. In the Declaration of Robert
12 H. Bunzel, the Defendant's counsel has specifically stated that they will need an
13 additional two and a half months to review the relevant portions of the discovery.
14 Given the large volume of discovery, failure to exclude time would unreasonably
15 deny counsel for Defendant Swanson reasonable time necessary for effective
16 preparation, taking into account the exercise of due diligence. *See* 18 U.S.C. §
17 3161(h)(8)(A) and (B)(ii) and B(iv).

18 The Court finds that the failure to grant the requested continuance would unreasonably
19 deny counsel for Defendant Swanson reasonable time necessary for effective preparation, taking
20 into account the exercise of due diligence. Furthermore, the Court finds that the ends of justice
21 would be served by excluding the proposed time period under the Speedy Trial Act. These ends
22 outweigh the best interests of the public and the defendants in a speedy trial. *See* 18 U.S.C. §
23 3161(h)(8)(A).

24 For the reasons stated, the Court finds that the time period from November 26, 2007 to
25 February 4, 2008 should be excluded from the calculation of time under the Speedy Trial Act, 18
26 U.S.C. § 3161(h)(8)(A).

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2 DATED: January 3, 2008

3 GARY SWANSON

Respectfully submitted,

U.S. DEPARTMENT OF JUSTICE

4
5 By: [Signature]

6 John J. Bartko
7 Robert H. Bunzel
8 William I. Edlund
Bartko, Zankel, Tarrant & Miller
A Professional Corporation

9 John F. McLean
10 Law Office of John F. McLean

By: [Signature]

11 Mall E. Lynch
12 Nathanael M. Cousins
13 May Lee Heye
14 Charles P. Reichmann
15 E. Kate Patchen
16 Trial Attorneys
17 U.S. Department of Justice
18 Antitrust Division

19 PURSUANT TO STIPULATION, IT IS SO ORDERED:

20 Dated: January 8, 2008

21 United States



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25 ORDER EXCLUDING TIME
26 UNDER SPEEDY TRIAL ACT
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